

Date of Hearing: March 13, 2023

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 378 (Grayson) – As Introduced February 1, 2023

SUBJECT: California Legacy License Plate Program

SUMMARY: Reestablishes the Department of Motor Vehicle's (DMV) California Legacy License Plate Program and grants DMV authority until January 1, 2025 to collect prepaid applications for legacy plates that did not receive the required number of applications by January 1, 2015. Specifically, **this bill:**

- 1) Authorizes DMV to sponsor a license plate with one or more of the following designs: a yellow background with black lettering, a black background with yellow lettering, and a blue background with yellow lettering.
- 2) Allows recipients of the license plates to customize the character sequence assigned to their plate.
- 3) Authorizes DMV to charge an additional \$50 for the issuance of the plate, \$40 for the renewal of the plate, \$15 for the transfer of the plate, and \$35 for each substitute replacement plate.
- 4) Directs DMV to deposit revenue from selling the plates to the California Environmental License Plate Fund, after deducting administrative costs.

EXISTING LAW:

- 1) Provides for a specialized license plate program, under which the DMV may issue new special-interest license plates. Special-interest license plates may be issued on behalf of state agencies and only if:
 - a) The license plate has “a design or contains a message that publicizes or promotes a state agency, or the official policy, mission, or work of a state agency.” The design shall also be confined to the left of and below the numerical series.
 - b) The state agency submits 7,500 applications and accompanying fees to DMV for the license plate. The state agency has 12 months to collect these applications and fees, but it can extend that to a maximum of 24 months if it notifies and offers to refund fees to those who applied during the first 12 months. Once a plate is issued, DMV stops issuing that plate for the agency if the number of plates drops below 7,500. (Vehicle Code (VEH) 5156)
- 2) Authorizes DMV to charge, in addition to the usual registration and license fees, the following additional fees for specialized license plates: \$50 for the initial issuance, \$40 for annual renewal, and \$98 to personalize. DMV deducts its administrative costs from the revenues generated. The net revenues derived from a specialized license plate are available upon appropriation for the sponsoring state agency to expend exclusively on projects and programs that promote the state agency's official policy, mission, or work. (VEH 5156)

- 3) Requires DMV to establish the California Legacy License Plate program to sponsor three legacy specialized license plates and gave DMV until January 1, 2015 to collect 7,500 paid applications for the plates. (VEH 5004.3)

FISCAL EFFECT: Unknown

COMMENTS:

In 2012, the California Legislature passed AB 1658 (Gatto), Chapter 720, establishing the California Legacy License Plate Program. The law required DMV to sponsor three separate license plates using the design of legacy plates from the 1950s, '60s, '70s and '80s. Specifically, DMV had to collect 7,500 pre-paid commitments each for a plate with a yellow background and black lettering, black background with yellow lettering, and blue background with yellow lettering.

The black background with yellow lettering plate was the only plate to succeed in collecting 7,500 prepaid commitments. The blue background with yellow lettering plate and the yellow background with black lettering plate both failed to meet the 7,500 prepaid commitment deadline of January 1, 2015 set in AB 1658. According to DMV, both plates had fewer than 2,000 individuals interested in purchasing those two plates.

The black and yellow plate, however, is the most popular specialized license plate in California. In fiscal year 2020-2021 the plate brought in an additional \$39.4 million for the California Environmental Protection Program. The second most successful plate, the kid's plate, brings in substantially less money at \$3.5 million. Only two other specialized license plates brought in more than \$1 million, with the other nine plates bringing in less than \$1 million annually.

Part of the success of the black and gold plate lies in the fact that unlike other specialized license plates, the black and gold plate does not charge an additional fee for the personalization of the characters of the plate.

According to the author, "With COVID-19 lockdowns now in our rearview window, Californians are ready to return to the roads and celebrate joyous parts of California's history. AB 378 will allow for some of California's most iconic license plates to return to production for car enthusiasts and everyday drivers alike. Too often, auto hobbyists and enthusiasts are told by government what they can't do. This measure is an opportunity to acknowledge those diverse communities and to show that there are times when government can be permissive in a fun way that also helps the state by helping fund environmental programs that benefit all Californians."

A bill is not necessary to create a new specialized plate: Creating a new specialized license plate does not require legislation. Members of the Legislature or private individuals can ask state agencies to sponsor a new plate. If there is a good plan in place to get to the 7,500 prepaid commitments, an agency would likely be willing to sponsor a plate because it would result in additional revenue for that agency.

One such agency that has taken advantage of this is the California Natural Resources Agency (CNRA). DMV provides a packet to state agencies on how to sponsor a plate on their own. CNRA in this past year reached out to multiple professional sports teams and signed a deal with several sports teams. Even after winning the Super Bowl, the Rams plate has not been popular with California customers and insofar has not received enough prepaid commitments to be created.

Members of the Legislature continue to introduce bills requiring agencies to sponsor plates; however, these bills have largely been unsuccessful in resulting in the minimum threshold of obtaining 7,500 commitments. Of the 12 legislatively-sponsored plates approved since 2000, only two have met the threshold. Of the four that have passed since 2014, only one reached the threshold. In the 2015-16 legislative session, seven bills were introduced directing a state agency to sponsor a specialized license plate. All seven died in either the Senate or Assembly Appropriations Committee. In the 2017-2018 session, five specialized license plates were introduced. One made it to the Governor and was vetoed. In the 2019 session, two specialized license plates were introduced and both were held in Senate Appropriations Committee. In the 2020 session, three bills were introduced. One died in Assembly Appropriations Committee, the other two were never set for a hearing. In 2021-2022 session two bills were held in Assembly Appropriations Committee.

In the past, California allowed private organizations to sponsor specialized license plates by making an application to DMV and allowed DMV to refuse to issue a plate based on its content. A U.S. District Court determined that the process for creating the plates was a freedom of speech violation as the court had determined that the process California used for creating specialized license plates was private speech and DMV could not turn down sponsorships based on content.

In response, the Legislature passed and Governor Schwarzenegger signed AB 84 (Leslie), Chapter 454, Statutes of 2006, which restricted DMV to only issue specialized license plates if they were sponsored by a state agency that received 7,500 commitments from individuals to purchase the plates.

The fees generated from 7,500 plates are necessary to ensure there are enough funds to reimburse DMV for the costs of adding a new plate. The majority of DMV's costs are for computer programming, and not the production, of the plate. Without meeting the 7,500 commitment threshold, these specialized plates would not serve their purpose of raising additional revenue for the state, and instead would become a cost burden to DMV, an agency whose expenditures are forecast to exceed revenues in the next five years.

Since the passage of AB 84, the U.S. Supreme Court, in *Walker v. Texas Division, Sons of Confederate Veterans*, determined that specialized license plates are government speech, not private speech, and upheld a Texas law that was similar to California's previous process of establishing specialized license plates.

A 2020 federal court case in the United States District Court Northern District of California has brought this decision into question. *Ogilvie v. Gordon* made the determination that personalized plates are not government speech and therefore the DMV cannot place restrictions on plates that may carry connotations offensive to good taste and decency, or which would be misleading. *Walker v. Texas Division, Sons of Confederate Veterans* explicitly placed aside the issue on whether personalized plates are government speech. DMV has not appealed the decision made in *Ogilvie*, allowing individuals to continue to have plates that may be offensive to others.

Committee concerns: The Motor Vehicle Account (MVA), the primary funding source for DMV, remains structurally imbalanced. Although the MVA is projected to have a positive fund balance through the next three fiscal years, in 2023-24, 2024-25, 2025-26, expenditures are anticipated to outpace revenues, reducing the fund balance from \$515 million in 2021-22 to \$10 million in 2025-26. The structural imbalance remains even though all future DMV and CHP capital outlay costs are being shifted away from the MVA to the General Fund in an attempt to keep the fund solvent. By 2026-2027 the MVA is projected to run a \$314 million deficit.

The Legislature should consider if requiring DMV to collect pre-paid commitments on a license plate that previously had fewer than 2,000 interested parties in purchasing it is a valuable use of MVA funds.

Previous Legislation:

AB 1658 (Gatto), Chapter 720, Statutes of 2012 established the California Legacy Plate Program and required DMV to sponsor the creation of three legacy license plates.

AB 84 (Leslie), Chapter 454, Statutes of 2006, restricted DMV to only issue specialized license plates if they were sponsored by a state agency that received 7,500 commitments from individuals to purchase the plates.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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